

Federal Communications Commission **ROOM 01-2057**

**Before the
Federal Communications Commission
Washington, D.C. 20554**

2001 SEP -6 P 3: 30

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Hollis, Oklahoma)

(Mangum, Oklahoma)

(Rule, Texas)

(Santa Anna, Texas)

RECEIVED

MM Docket No. 01-217
RM-10236

MM Docket No. 01-218
RM-10237

MM Docket No. 01-219 ✓
RM-10238

MM Docket No. 01-220
RM-10239

NOTICE OF PROPOSED RULE MAKING

Adopted: August 22, 2001

Released: August 31, 2001

Comment Date: October 22, 2001

Reply Date: November 6, 2001

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket *Notice of Proposed Rule Making* setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket *Notice of Proposed Rule Making* issued in accordance with the Commission's *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rulemaking*. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the *Public Notice*, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MM Docket No. 01-217; RM-10236

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 274C2 at Hollis, Oklahoma as the community's second FM allotment.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Hollis, Oklahoma	223A	274C2, 223A

Coordinates: 34-32-55 NL and 99-56-12 WL

Additional Information: The proposed allotment of Channel 274C2 at Hollis requires a site restriction of 15.7 km (9.7 miles) south of Hollis at the coordinates indicated above.

Petitioner states that Hollis is a city with a population exceeding 2,600 persons.

FCC Contact: Deborah A. Dupont (202) 418-7072

B. MM Docket No. 01-218; RM-10237

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 259C2 at Mangum, Oklahoma as the community's first competing FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Mangum, Oklahoma	249A	259C2, 249A

Coordinates: 34-53-28 NL and 99-46-33 WL

Additional Information: The proposed allotment of Channel 259C2 at Mangum requires a site restriction of 25 km (15.5 miles) west of Mangum at the coordinates indicated above.

Petitioner states that Mangum is an incorporated city with a population in excess of 3,000 persons.

C. MM Docket No. 01-219; RM-10238

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 253A at Rule, Texas as the community's first competing FM transmission service.¹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Rule, Texas	239A ²	253A, 239A

Coordinates: 33-10-17 NL and 99-55-24 WL

Additional Information: The proposed allotment of Channel 253A at Rule requires a site restriction of 3.2 km (2 miles) southwest of Rule at the coordinates indicated above.

Petitioner states that Rule is an incorporated city with a population of 720 persons.

FCC Contact: Deborah A. Dupont (202) 418-7072

D. MM Docket No. 01-220; RM-10239

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 282A at Santa Anna, Texas as the community's first competing local transmission service.

¹ A rulemaking is pending to consider allocation of Channel 239A to Rule as a first FM transmission service. *Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Rule, Texas)*, MM Docket No. 01-183, DA 01-1863 (released August 3, 2001).

² Allocation of Channel 239A to Rule is under consideration in a pending rulemaking, cited *supra* in n.3.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Santa Anna, Texas	288C3	282A, 288C3

Coordinates: 31-40-36 NL and 99-16-25 WL

Additional Information: The proposed allotment of Channel 282A at Santa Anna requires a site restriction of 8.5 km (5.3 miles) southeast of Santa Anna at the coordinates indicated above. The proposed allotment will require concurrence by Mexico because Santa Anna is located within 320 kilometers (199 miles) of the Mexican border.

Petitioner states that Santa Anna is an incorporated city with a population of 1,233 persons.

FCC Contact: Deborah A. Dupont (202) 418-7072

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket *Notice of Proposed Rule Making* should reference only the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **October 22, 2001**, and reply comments on or before **November 6, 2001**, and are advised to read the Appendix for the proper procedures. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Section 603 and 604 of the Regulatory Flexibility Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed.Reg. 11549 (February 9, 1981).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or

any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in the particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority contained in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM (TV) Table of Allotments, Section 73.202(b) (73.606(b)) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257), at its headquarters, 445 Twelfth Street, SW., Washington, D.C.